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UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF CALIFORNIA
 FRESNO DIVISION

In re:	)	Case No. 12-17027-B-7
	)	Chapter 13
ALFREDO CORTEZ,	)	DC No. UST-1
)	
	)	Date: June 26, 2013
	)	Time: 10:00 a.m.
	)	Place: U.S. Bankruptcy Court
	)	Department B, Courtroom 12
	)	2500 Tulare Street
Debtor.	)	Fresno, California
	)	Judge: W. Richard Lee

**FINDINGS OF FACT AND CONCLUSIONS OF LAW ON
 UNITED STATES TRUSTEE'S MOTION FOR FINES AND DISGORGEMENT TO
 DEBTOR UNDER 11 U.S.C. § 110**

On June 26, 2013, the United States Trustee's Motion For Fines And Disgorgement To Debtor Under 11 U.S.C. § 110 came on for hearing. Robin Tubesing, Esq. appeared for the United States Trustee. The Debtor appeared *in propria persona*. Having reviewed the unopposed pleadings of the United States Trustee, the Court now issues the following findings of fact and conclusions of law.

Findings of Fact

1. On March 22, 2012, Alfredo Cortez ("the Debtor") filed a chapter 7 petition in Case No. 12-14564-A-7 styled *In re Alfredo Cortez* (Case No. 1).

2. On August 19, 2012, Case No. 1 was dismissed because the debtor failed to attend the meeting of creditors. .

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1 3. On August 15, 2012, the Debtor filed a chapter 7 petition in Case No. 12-17027-B-7,
2 styled *In re Alfredo Cortez* (Case No. 2).

3 4. On October 31, 2012, Case No. 2 was dismissed because the Debtor failed to attend
4 the meeting of creditors.

5 5. On December 18, 2012 the Debtor filed a chapter 13 petition in Case No. 12-60296-B-
6 13 styled *In re Alfredo Cortez* (Case No. 3).

7 6. On January 7, 2013, the case was dismissed because the Debtor failed to file
8 documents.

9 7. On February 15, 2013, the Debtor filed a chapter 13 petition in Case No. 13-10974-A-
10 13 styled *In re Alfredo T. Cortez* (Case No. 4).

11 8. The petitions in Case Nos. 1-2 were prepared and delivered to the court by Edgar
12 Montoya.

13 9. The Debtor paid Edgar Montoya \$1,000 on June 4, 2011, \$1,000 on May 18, 2012,
14 and \$1,000 on June 5, 2012.

15 10. Edgar Montoya is not an attorney.

16 **Conclusions of Law**

17
18 11. The United States Trustee is statutorily obligated to monitor the administration of
19 cases commenced under chapter 7, 11, 12 and 13 of the Bankruptcy Code. 28 U.S.C. §
20 586(a)(3). The United States Trustee has standing to raise, and to appear and be heard on, any
21 issue in any bankruptcy case or proceeding. 11 U.S.C. § 307. The United State Trustee may
22 seek the disgorgement of fees and fines against petition preparers. 11 U.S.C. §§ 110(h)(4), (k)(3)

23 12. Section 110(a) of the Bankruptcy Code provides in relevant part:

24 (1) “bankruptcy petition preparer” means a person, other than an attorney for the
25 debtor or an employee of such attorney, who prepares for compensation a
document for filing; and

26 (2) “document for filing” means a petition or any other document prepared for
27 filing by a debtor in a United States bankruptcy court or a United States District
court in connection with a case under this title.

28 11 U.S.C. § 110(a)(1)-(2).

1 13. Edgar Montoya (“the Preparer”) is a bankruptcy petition preparer. The Preparer
 2 prepared the Debtor’s bankruptcy petition for filing for compensation in Case Nos. 1 and 2. The
 3 Preparer is not an attorney and, upon information and belief, is not an employee of an attorney or
 4 law firm.

5 14. Section 110(l) of the Bankruptcy Code provides in pertinent part:

6 A bankruptcy petition preparer who fails to comply with any provision of
 7 subsections (b), (c), (d), (e), (f), (g), or (h) [of Section 110] may be fined not
 8 more than \$500 for each such failure.

11 U.S.C. § 110(l).

9
 10 15. The Preparer violated subsections (b)(1), (b)(2), (c)(1), and (h)(2) and he
 11 shall be fined a total of \$2,000 as detailed below.

12 16. Section 110(b)(1) of the Bankruptcy Code provides in pertinent part that:

13 A bankruptcy petition preparer who prepares a document for filing shall
 14 sign the document and print on the document the preparer’s name and
 15 address. If a bankruptcy petition preparer is not an individual, then an
 16 officer, principal, responsible person, or partner of the bankruptcy petition
 17 preparer shall be required to –

18 (A) sign the document for filing; and

19 (B) print on the document the name and address of that officer,
 20 principal, responsible person, or partner.

11 U.S.C. § 110(b)(1).

21 17. The Preparer did not sign the petition in Case No. 2 and did not print his name and
 22 address on the petition. The Preparer shall be fined \$500 for his failure.

23 18. Section 110(b)(2)(A) of the Bankruptcy Code provides in pertinent part:

24 Before preparing any document for filing or accepting any fee from a
 25 debtor, the bankruptcy petition preparer shall provide to the debtor a
 26 written notice which shall be on an official form prescribed by the
 27 Judicial Conference of the United States in accordance with rule 9009
 28 of the Federal Rules of Bankruptcy Procedure.

11 U.S.C. § 110(b)(2)(A).

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1 19. The notice is required to be signed by the debtor and, under penalty of
2 perjury, by the bankruptcy petition preparer and must be filed with the court. 11
3 U.S.C. § 110(b)(2)(B)(iii).

4 20. The Preparer did not file the form (Official Form 19) referred to in the
5 statute, suggesting that he did not provide it to the Debtor. He shall be fined \$500 for
6 his failure to do so.

7 21. Section 110(c)(1)(A) of the Bankruptcy Code provides in pertinent part:

8 A bankruptcy petition preparer who prepares a document for filing shall place on
9 the document, after the preparer's signature, an identifying number that identifies
10 individuals who prepared the petition.
11 U.S.C. § 110(c)(2)(A).

11 22. The Preparer failed to list his social security number on the petition and shall be
12 fined \$500 for failing to do so.

13 23. Section 110(h)(2) of the Bankruptcy Code provides in pertinent part:

14 A declaration under penalty of perjury by the bankruptcy petition preparer
15 shall be filed together with the petition disclosing any fee received from or
16 on behalf of the debtor within 12 months immediately prior to the filing of
11 U.S.C. § 110(h)(2).
the case, and any unpaid fee charged to the debtor.

17 24. The Preparer failed to disclose the \$1,000 paid to him by the Debtor on May 18,
18 2012, and the \$1,000 paid to him on June 5, 2012 and shall be fined \$500 for his failure.

19 25. Based on the violations of Section 110 described above, the Preparer shall be fined
20 \$500 for each of the four violations, for a total fine of \$2,000. The fine shall be paid to the
21 United States Trustee. 11 U.S.C. § 110(l)(4)(A).

22 26. Pursuant to 11 U.S.C. § 110(l)(2), the court shall triple the amount of the fine
23 imposed under Section 110(l)(1) if the court finds that a bankruptcy petition preparer "prepared a
24 document for filing in a manner that failed to disclose the identity of the bankruptcy petition
25 preparer." 11 U.S.C. § 110(l)(2)(D).

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1 27. The Preparer failed to disclose his involvement in preparing the Debtor's petition in
2 Case No. 2. Therefore, the statutory fine of \$2,000, imposed herein, shall be tripled to \$6,000.

3 28. Section 110(h)(3)(B) of the Bankruptcy Code provides in pertinent part:

4 All fees charged by a bankruptcy petition preparer may be forfeited in any
5 case in which the bankruptcy petition preparer fails to comply with this
6 subsection or subsection (b), (c), (d), (e), (f), or (g).
7 11 U.S.C. § 110(h)(3)(B).

8 29. As detailed above, the Preparer violated subsections (b)(1), (b)(2), (c)(1), and (h)(2).
9 The Debtor paid the Preparer \$3,000. Accordingly, the Preparer shall forfeit \$3,000 to the
10 Debtor.

11 Conclusion

12 For the foregoing reasons, the Court concludes the following relief should be granted:

- 13 (A) The Preparer shall disgorge fees of \$3,000 to the Debtor within 30 days; and
14 (B) The Preparer shall pay a fine of \$6,000 to the United States Trustee within 60
15 days.

16 A separate order shall be entered.
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22 Dated: Jul 10, 2013

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24 _____
25 W. Richard Lee
26 United States Bankruptcy Judge
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